(37,679)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1932

No. 982

J. T. TROTTER, GUARDIAN OF JOSEPH A. LEAKE, PETITIONER,

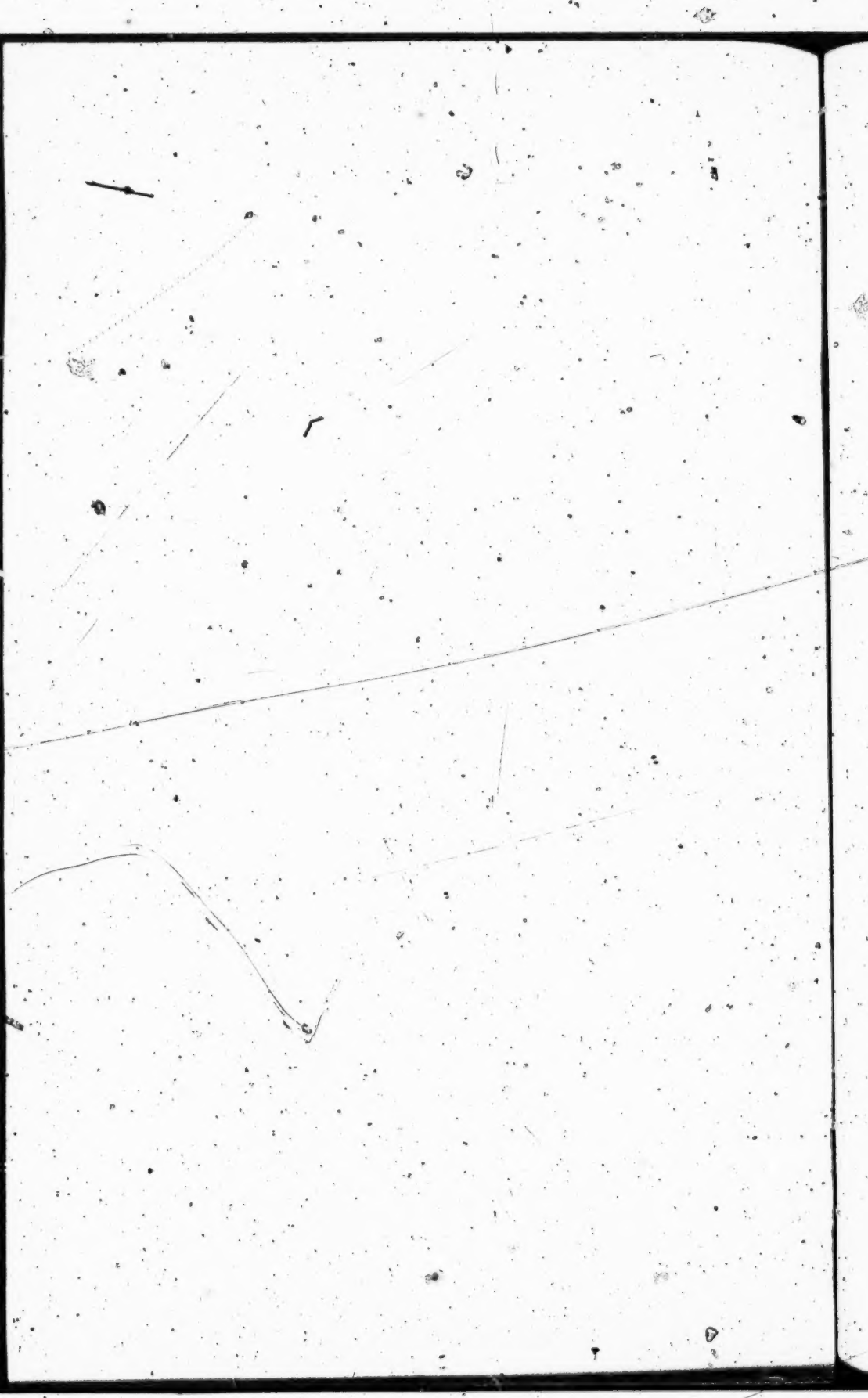
vs.

STATE OF TENNESSEE, IN ITS OWN BEHALF AND FOR THE USE AND BENEFIT OF BLOUNT COUNTY, TENNESSEE

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF TENNESSEE

INDEX

	Original	Print
Record from chancery court of Blount County	1	1
Bill of complaint	1	1
Answer of R. B. Leake	4	3
Intervening petition and answer of J. T. Trotter, guardian	7	4
Stipulation of facts	11	7
Exhibit "A"—Decree of chancery court in case of Leake vs. Leake	14	9
Final decree	18	12
Clerk's certificate (omitted in printing)	20	
Cost bill (omitted in printing)	20	
Assignments of error	21	13
Proceedings in supreme court of Tennessee	22	13
Opinion, Swiggart, J.	22	13
Judgment	28	17
Stipulation as to transcript of record	30	18
Clerk's certificate (omitted in printing)	31	
Order extending time	34	18
Order allowing certiorari		19



[fols. a-1] [File endorsement omitted]

IN CHANCERY COURT OF BLOUNT COUNTY

No. 2006

THE STATE OF TENNESSEE, in Its Own Behalf and for the Use and Benefit of Blount County, Tennessee,

versus

The Following-named Citizens and Tax Payers of Blount County, Tennessee: Ninth District, LEAKE, R. B.

BILL OF COMPLAINT—Filed Feb. 26, 1931

To the Honorable Ben Robertson, Chancellor, holding the Chancery Court at Maryville for Blount County, Tennessee:

Complainants respectfully show to the Court:

I

That the defendants are delinquent in the payment of the State and County Taxes for the year 1929, on real estate assessed against them in Blount County, Tennessee, which taxes together with interest and penalty remains unpaid.

II

That under the laws of Tennessee, the lands of said defendants as set forth and described in the Tax Books for the year 1929, and in the report of delinquent real estate for the year 1929, are subject to and are impressed with the lien for the unpaid taxes, interest, penalties and costs due the State of Tennessee and County of Blount for the year 1929.

[fol. 2]

III

That the following is the list and description of said delinquent tax payers for the year 1928, which are subject to and impressed with a lien by law for the payment of said taxes, interest, penalties and costs, together with the entire amount of unpaid delinquent real estate on March 1, 1929:

Leake, R. B., 5 acres, from Eggers, bounded by James, Truck, Pike, $59.40.

This report of delinquent real estate taxes for the year 1929 is herewith filed as Exhibit "A" to the bill and made a part thereof, but the same need not be copied in issuing process.

Premises considered, complainant prays:

I

The proper process issue to compel said defendants and each of them to appear and answer this bill, but their oaths to their answer are waived.

II

That in case any of the defendants are not residents of the State of Tennessee, that publication be made for said parties to appear and answer this bill, but their oaths to their answers are waived, and if necessary attachment issue [fol. 3] and levy upon the lands against which there are liens for taxes.

III

That complainants have a decree against each of said defendants for the full amount of said unpaid taxes, interest, penalties and costs; and that a lien be declared on the respective properties of each of said defendants to secure the amount of said unpaid taxes, penalties and costs.

IV

That to enforce said lien on said respective properties of each of said defendants, and said property be sold for cash in hand subject to the equity of redemption; and that the proceeds of said sale be applied to the satisfaction of this decree and in discharge of said lien.

V

That complainant have such other, further and general relief as it may be entitled to on the hearing.

Thos. N. Brown, Tax Attorney.

Duly sworn to by Thos. N. Brown. Jurat omitted in printing.

[fol. 4] [File endorsement omitted]

IN CHANCERY COURT OF BLOUNT COUNTY

[Title omitted]

ANSWER OF R. B. LEAKE—Filed Sept. 21, 1931

In this cause the defendant, R. B. Leake, for answer and disclaimor to the bill filed against him and others in this cause, separately answering, says:

[fol. 5]

I

That he disclaims any and all right, title, interest or claim in and to the tract of land described on page 34 of the original bill.

II

Further answering this defendant would show to the Court that the property as described on page 34 of the original Bill was purchased from one Eggers by this defendant as guardian of one Joseph A. Leake, a non compos mentis. It was purchased exclusively with funds belonging to the said Joseph A. Leake and title was taken in the name of this defendant as guardian of said Joseph A. Leake. The property is therefore the exclusive property of the said Joseph A. Leake.

Subsequent to the purchasing of this property, to-wit, on or about the — day of May, 1928, this defendant was relieved as the guardian of the said Joseph A. Leake and W. C. Murphy was appointed guardian in his stead. Subsequent to said date to-wit, on or about the — day of August, 1931, J. T. Trotter of Maryville, Blount County, Tennessee, was appointed and qualified in the County Court at Blount County as guardian of the said Joseph A. Leake, replacing the said W. C. Murphy who resigned. Said J. T. Trotter is now acting in the capacity as guardian and is a proper defendant to this cause.

III

This defendant further says that he does not now and never has since May, 1928, claimed any interest whatever in said land and has never had possession of said land or exer-

[fol. 6] cised any acts of ownership over it except that he is now residing on said land as a tenant of the guardian.

He therefore prays that this disclaimor may be taken as a full and sufficient answer to said bill and that he may be hence dismissed with his costs.

R. B. Leake, by D. Sylvan Kramer, Solicitor. Kramer & Kramer, Solicitors.

[fol. 7] [File endorsement omitted]

IN CHANCERY COURT OF BLOUNT COUNTY

[Title omitted]

INTERVENING PETITION AND ANSWER OF J. T. TROTTER, GUARDIAN—Filed Sept. 22, 1931

The Intervening Petition and Answer of Joseph A. Leake, by J. T. Trotter, His Guardian, and of J. T. Trotter, Guardian of Joseph A. Leake, to the Original Bill.

I

These petitioners for joint and separate answers to the Bill filed against R. S. Leake and others say that the petitioner, Joseph A. Leake, is non compos mentis and is now confined in the United States Government Hospital at Marion, Indiana.

The petitioner, J. T. Trotter, is the duly appointed and qualified guardian of the said Joseph A. Leake, having been so appointed by the County Court of Blount County, Tennessee, and having qualified as such guardian on the — day of August, 1931. Certified copy of his letters of Guardianship will be produced upon the hearing or sooner if demanded.

II

These petitioners further answering say that the five acre Tract of land as described in the original bill and alleged therein to be the property of R. B. Leake, was, throughout the year of 1929, and still is, a part of the estate of the petitioner Joseph A. Leake. They therefore deny that said property or any part thereof was or is the property of R. B. Leake and they deny that the said R. B. Leake has any right, [fol. 8] title, interest or claim in or to the said real estate.

They aver that said property is now held by the petitioner, J. T. Trotter, as guardian of the said Joseph A. Leake.

III

These petitioners deny that they are delinquent in the payment of state or county taxes for the year 1929 or for any other year on the property described in the original Bill. They deny that any taxes, interest, or penalty is due.

They deny that said lands are subject to or impressed with any lien for unpaid taxes, interest, penalties, or costs due the State of Tennessee or to Blount County for the year 1929.

They deny that there is $59.40 due as taxes, interest, penalty, and costs on said land. They deny that there is any amount due on said land for the year 1929, or for any other year.

IV

These petitioners further answering would show to the Court that the petitioner, Joseph A. Leake, served in the United States Army during the recent World War and by virtue of his services in said World War he became non compos mentis and has been in such condition ever since his discharge from the Army.

By reason of his disability incurred in the War his estate was entitled to receive and has received compensation of $100.00 a month from the United States Government under [fol. 9] and by virtue of the "World War Veterans' Act, 1924", being an act of the Congress of the United States, passed June 7, 1924, and acts amendatory thereto.

While enlisted in the Army the said Joseph A. Leake procured from the United States Government a policy of life insurance in the sum of $10,000.00. This insurance is also provided under the said act of The Congress of the United States. Since the said Joseph A. Leake has been incompetent his estate under the terms of said policy, has been receiving from the United States Government $57.50 per month in addition to the compensation hereinbefore mentioned.

This veteran has no other income and has received no money from any other source since his disability.

Part of the money thus received was, by permission of this Court, invested by the guardian of the said Joseph

A. Leake in the property which is described in the original Bill as being the property of R. B. Leake. The money invested in this property was received exclusively as compensation and insurance from the United States Government under the Acts of Congress above set out. This investment was made in accordance with a decree of this Court authorizing a guardian to so invest said money which decree is of record in Minute Book —, page —, of this Court. Said property is now and has continuously since its purchase been under the direct control of the guardian of said Joseph A. Leake.

Said Act of the Congress of the United States provides:

"The Compensation, insurance, and maintenance and support allowance payable shall not be assignable; shall not be subject to the claims of creditors; and shall be exempt from all taxation."

V

These petitioners therefore aver that said property represents an investment of the fund received from the [fol. 10] United States Government and as such under the Acts hereinbefore set out, is still subject to governmental control and therefore not subject to any tax either by the State of Tennessee or Blount County.

VI

The premises considered, the petitioners pray that:

First. They be permitted to file this intervening petition as an answer to the original Bill in this cause, and that they be permitted to become defendants in the cause.

Second. That upon the hearing the original bill be dismissed as to these defendants and as to the land sought to be sold in this proceeding.

Third. These petitioners have all such other further and general relief as they may be entitled to upon the hearing.

Joseph A. Leake, J. T. Trotter, by D. Sylvan Kramer, Solicitor. Kramer & Kramer, Solicitors.

Duly sworn to by D. Sylvan Kramer. Jurat omitted in printing.

[fol. 11] [File endorsement omitted]

IN CHANCERY COURT OF BLOUNT COUNTY

[Title omitted]

STIPULATION OF FACTS—Filed April 12, 1932

It is stipulated and agreed by all parties hereto that Joseph A. Leake is a veteran of the World War and was rendered non compos mentis as a result of his service in said War. J. T. Trotter is the regularly appointed and duly qualified guardian of Joseph A. Leake. Said Joseph A. Leake has had a guardian continuously from May 15, 1922, down to the present time.

It is further stipulated and agreed that as a result of said disability the guardian of Joseph A. Leake is now, [fol. 12] and has been since May 1922, receiving from the Veterans' Bureau of the United States Government the sum of $100.00 per month as compensation as provided in the World War Veterans' Act of 1924 (June 7, 1924, c. 320, Sec. 1, 43 Stat. 607), same being an Act passed by the Congress of the United States, June 7, 1924, and Acts amendatory thereto. And the guardian is also receiving for the benefit of his said ward the sum of $57.50 per month from the Veterans' Bureau of the United States Government as benefits under an insurance policy on the life of the Veteran as provided by said Act of Congress (June 7, 1924, c. 320, Sec. 300, 43 Stat. 624) and Acts amendatory thereto.

It is further stipulated and agreed that the veteran's estate consists solely of money received from the United States Government as above set out, and of the property in question in this cause.

It is further stipulated and agreed that on June 3, 1924, the guardian of Joseph A. Leake, purchased from one J. C. Eggers five acres of land with a house, barn, and outbuildings thereon, which is the property in question in this cause. The consideration for said sale was $6,000.00. Of this amount the guardian paid, out of the estate of his ward, from funds received from the United States Government, $2,500.00 cash, and executed three notes payable one, two and three years after date respectively for the

respective amounts of $666.00, $667.00, and $667.00, and also assumed the payment of a mortgage of $1,500.00 owing to Maryville College.

This purchase was, on January 25, 1926, confirmed by the Chancery Court of Blount County in the case of R. B. Leake vs. Joseph A. Leake, Number 1448, and a copy of [fol. 13] the decree entered in that cause is filed as Exhibit "A" to this stipulation and is made a part hereof.

It is further stipulated and agreed that the three notes for $666.00, $667, and $667.00 respectively were paid off by the guardian from funds received in the manner as before set out from the United States Government.

After the purchase of said land the guardian insured the buildings on the property against fire to the amount of $3,000.00, the premiums being paid out of the ward's estate. In 1928 the dwelling house on the property was burned and the guardian collected from the fire insurance companies the $3,000.00 insurance. Out of this fire insurance money the guardian paid off the $1,500.00 mortgage to Maryville College on March 26, 1929.

It is further stipulated and agreed that this property was, during the year 1929, under the control of the guardian of Joseph A. Leake and was erroneously assessed in the name of R. B. Leake.

It is also stipulated and agreed that the assessed value of the property in question for the year 1929 was $3,000.00 and the State tax rate was $.20 and the County tax rate was $1.78 making the total rate for the year 1929 of $1.98.

It is further stipulated and agreed that no taxes, either State or County, have been paid on said *on said* property for the year 1929 and if the property was subject to taxation said taxes were unpaid and delinquent at the time the original bill was filed in this cause and were subject to, and impressed with a lien for the unpaid taxes, interest, penalty and costs.

[fol. 14] Approved:

Brown & Johnson, Solicitor for Complainant. D. Sylvan Kramer, Solicitor for Defendant.

[File endorsement omitted]

EXHIBIT "A" TO STIPULATION OF FACTS

Monday, January 25, 1926

[Title omitted]

IN THE CHANCERY COURT AT MARYVILLE FOR BLOUNT COUNTY, TENNESSEE

This cause came on to be heard this day before the Honorable E. R. Taylor, Chancellor, upon the entire record in this cause, but more especially upon the report of the Clerk and Master on an order of reference heretofore entered which report is in the words and figures as follows:

No. 1448

R. B. LEAKE

vs.

JOSEPH A. LEAKE

Master's Report on Reference

[fol. 15] In obedience to an order of reference directing the Master to hear proof and report:

1st. What is the mental condition of the defendant Joseph A. Leake.

2nd. Whether the purchase of the property described in the original bill by complainant for his ward, Joseph A. Leake, is an advantageous purchase, and whether it is manifestly for the interest and welfare of the defendant that said purchase be confirmed to the defendant.

3rd. What is the income of the defendant and what moneys have come into the hands of complainant belonging to the defendant.

4th. The Master will report upon the exact terms of the purchase and will show why the purchase would be advantageous for the defendant.

5th. The Master will report upon any other matters deemed pertinent to the issues in this suit.

After hearing proof in this cause and considering that on file I submit the following report:

I

I find that Joseph A. Leake is a person of unsound mind, and that he has been adjudged such by the County Court of Blount County (Deps. W. L. James, P. 2, Deps. R. B. Leake, P. 5).

II

I find from the proof that the purchase of the property described in the original bill is an advantageous one. (Deps. W. L. James, P. 3, J. O. Law, P. 10) and it would be manifestly to the best interest and welfare of the defendant Jo-
[fol. 16] seph A. Leake, that said purchase be confirmed to the said defendant (Deps. R. B. Leake, P. 6).

III

The income of the defendant is One Hundred Dollars compensation per month from the U. S. Government and $57.00 per month on insurance (Deps. R. B. Leake, P. 5 and 6), and the money that had come into the hands of R. B. Leake as Guardian, on September 14, 1925, the time of taking proof in this cause was $6,837.00 (Exhibit to Deps. R. B. Leake).

IV

The complainant R. B. Leake purchased the said tract of land from J. C. Eggers on the following terms: For the consideration of $6,000.00, of which sum $2,500 was paid cash in hand, and assuming the payment of one note of $1,500.00 to Maryville College with interest from April 15, 1924, said note is secured by deed of trust on said tract of land, also three notes dated June 3, 1924, one for $666.00 due one year after date, one for $667.00 due two years after date, and one for $667.00 due three years after date, all bearing interest from date payable annually. (See Deed Exhibit to original Bill.) I find from the proof on file the purchase to be an advantageous one on the part of Joseph A. Leake to be such that he is better when he is away from too many people, and as said property is located away from

town in a quiet place, he is easier to control and seems to be satisfied to live there. It is therefore an advantageous purchase for said defendant, Joseph A. Leake.

Respectfully submitted.

[fol. 17] Joe H. Gamble, Clerk & Master.

And said report being unexcepted to, is on motion of complainant in all things ratified and confirmed.

It is therefore accordingly ordered, adjudged and decreed by the court that complainant be and is hereby authorized and directed by the court to make and executed a deed conveying and vesting the title in and to the following described tract of land to the defendant, Joseph A. Leake, to-wit:

Situated in the 9th Civil District of Blount County, Tennessee, containing 5 acres more or less, and described as follows: Beginning on a stake in the Tuchaleechee Pike corner to Pleas Headrick, thence with the same N. 42½ E. 30.9 chains to a stone on the line of W. L. James; thence with said line S. 50 E. 7 1/10 chains to a stone, a corner to W. T. Renfro; thence with the same S. 42½ W. 24 4/10 chs. to a stake in the Pike, thence with said Pike N. 74½ W. 8 3/10 chas. to the beginning, containing five acres, more or less.

It is further ordered, adjudged and decreed by the Court that the purchase and investment of the funds of complainant's ward be in all things ratified and confirmed by the Court.

The Court further orders, adjudges and decrees that complainant be, and is hereby authorized to use the money in his hands for the purpose of paying the purchase price for said tract of land, and is authorized and directed to use such other funds as may come into his hands for the purpose of finishing the payments on said tract of land.

It is further ordered, adjudged and decreed by the Court that complainant pay the cost of this cause out of the funds in his hands including a fee to Crawford & Goddard for their services of $60.00 and a fee of $25.00 to Chas. C. Jackson, Guardian ad Litem.

[fol. 18] [File endorsement omitted]

IN CHANCERY COURT OF BLOUNT COUNTY

No. 2006

STATE OF TENNESSEE

vs.

ARTHUR BLAIR et al.

FINAL DECREE—Filed September 15, 1932

This cause came on to be heard before the Honorable Ben Robertson, Chancellor, upon the original bill, the answer of the defendant R. B. Leake, the intervening petition and answer of J. T. Trotter, guardian of Joseph A. Leake, and the stipulation of facts and the argument of counsel, from all of which the Court is — the opinion that the property in question is not subject to taxation either by the State of Tennesse or by Blount County.

It is therefore ordered, adjudged and decreed by the Court that the complainant's bill, in so far as it seeks to collect taxes on the five acres described in the original bill and alleged therein to belong to R. B. Leake, is dismissed.

It is further ordered, adjudged and decreed by the Court that the defendants, R. B. Leake, J. T. Trotter, guardian of Joseph A. Leake and Joseph A. Leake have and recover of the State of Tennessee, all the costs incident to making these defendants parties, for which execution will issue.

[fol. 19] To the action of the Court in holding that the property is not subject to taxation, and in dismissing the complainant's bill as to these defendants, the State of Tennessee excepts and prays as appeal to the Supreme Court of Tennesese which is granted.

O. K.

Sam Johnson, for Complt. D. Sylvan Kramer, for Defts.

Thereupon Court adjourned until Court in course.

[fol. 20] Clerk's certificate to foregoing transcript omitted in printing.

Bill of costs omitted in printing.

[fol. 21] IN SUPREME COURT OF TENNESSEE

ASSIGNMENT OF ERRORS

First. The Honorable Court erred in holding that the property belonging to Joseph A. Leake, a non compos mentis, was not subject to taxation, either by State of Tennessee, or by Blount County.

Second. The Court erred in holding that this entire tract of land and improvements, was not subject to either State and County taxes, when it is clearly shown that all of the purchase price of said farm was not paid out of money derived either from the Insurance Department or from the Veterans' Bureau.

Third. The Honorable Court erred in adjudging the costs of the cause against the State of Tennessee.

[fol. 22] [File endorsement omitted]

IN SUPREME COURT OF TENNESSEE, SEPTEMBER TERM, 1932

For Publication. Swiggart, Judge

STATE OF TENNESSEE

vs.

ARTHUR BLAIR et al.

Blount Equity

OPINION—Filed Feb. 14, 1933

This suit was instituted by the State to collect a property tax assessed and levied upon a tract of land for the year 1929. During that year title to the land was held by Joseph A. Leake, non compos mentis, either in his own name or in the name of his guardian for him.

By intervening petition, J. T. Trotter, duly appointed and qualified guardian of the said Joseph A. Leake, claimed an exemption of said land from taxation, on the ground that it was purchased, under an order of the Chancery Court of Blount County, for the said ward, with

money paid to the guardian by the United States under the World War Veterans' Act of Congress.

The material facts bearing upon this claim of exemption [fol. 23] were stipulated by counsel. The stipulation recites that Joseph A. Leake was rendered mentally incompetent as a result of his service in the World War, and has had a guardian from May, 1922, to the present time. Since May, 1922, the guardian has received from the Veterans' Bureau of the United States Government for his ward the sum of $100 per month as compensation, and an additional sum of $57.50 per month as disability benefits under a policy of War Risk Insurance. The ward has no other property than the proceeds of these payments and the land in question. All of the purchase price of the land was paid with money received as above set out, except $1,500, the proceeds of fire insurance on a building located on the property, premiums for which insurance were paid by the guardian with money received from the United States. The record does not recite whether the title to the land was taken in the name of Trotter, as guardian, or directly in the name of the ward, but it is conceded that the ward is alone interested beneficially in the land.

The Chancellor decreed that the land was not subject to the property tax levied by the state and county, and the state has appealed.

The exemption is claimed by the guardian for his ward under the provisions of the United States Code, Title 38, section 454, which provides:

"'The compensation, insurance and maintenance and support allowance payable under Parts II, III, and IV, respectively, shall not be assignable; shall not be subject to the claims of creditors of any person to whom an award [fol. 24] is made under Parts II, III, or IV; and shall be exempt from all taxation.'"

It is contended that the intervention of the guardianship has had the result that the payments of compensation and insurance by the United States have not yet reached the ward, but are still in the hands of the guardian as an agency of the United States Government.

This question has received consideration by this court and was determined adversely to the contentions of the

guardian in the case of State v. Bank of Bristol, opinion filed on January 7, 1933, 165 Tenn. —, — S. W. (2d) —. In that case Chief Justice Green, for the Court, said:

"Conceding that the guardian is in a sense a government agent. He is also the agent of the beneficiary of the fund. His duties to the government consist in applying the fund for the benefit of the minor and in reporting to the government from time to time as to such application. The government does not undertake to regulate the manner of the application of such fund to the beneficiary's use. So far as the Federal statutes are concerned, the guardian may spend the money directly for the beneficiary's comfort, invest the money to provide an income for the beneficiary, or deposit the money in bank to meet the future needs of the beneficiary. In making the deposit in bank, therefore, this guardian was acting as agent of the incompetent beneficiary and not as agent of the government.

[fol. 25] "It seems a mistake to us to say that the government retained any title to or interest in this fund after it was paid to the guardian. The government retained control of the administration of the fund, to a limited extent, and made a provision with reference to escheat. Such provisions are sustained because the guardian was not bound to accept the fund, and if he did accept, he took on the terms prescribed by the Act of Congress. United States v. Hall, 98 U. S. 343, 25 L. ed. 180. The State likewise regulates the administration of trust funds but it has never been contended that such regulations could be regarded as a declaration of interest on the part of the State in these funds. It is settled in this jurisdiction and elsewhere that in the relation of guardian and ward, the title to the property is in the ward and that the possession of the guardian is the possession of the ward, and will inure to the ward's benefit under statutes of limitation. Williams v. Walton, 16 Tenn. (8 Yerg.) 387; Davis v. Mitchell, 13 Tenn. (5 Yerg.) 281. Such is the rule elsewhere. 28 C. J. 1128, 12 R. C. L. 1123."

A similar conclusion was reached by the Supreme Court of Kansas in State ex rel. Smith (Boynton) v. Board of Commissioners of Shawnee County, 132 Kan. 233, 294 Pac.

915; Certiorari denied by the Supreme Court of the United States, 283 U. S. 855, 75 L. ed. 1462.

The Supreme Court of Kansas, in the case cited, further [fol. 26] held that shares of stock in a private industrial corporation, purchased by a guardian for his ward with money paid by the United States as compensation and insurance, as in the case now before us, were not exempt from taxation by the State under the Act of Congress cited. Since the Supreme Court of the United States declined to review the decision of the Supreme Court of Kansas, we regard the decision as an authoritative construction of the exemption clause of the Act of Congress. The case was cited with approval, and followed, in Martin v. Guilford County, — N. C. —, 158 S. E. 847, 76 A. L. R. 978, and in State v. Wright, — Ala. —, 140 So. 584.

The earlier authorities cited on the brief of the appellee are referred to and distinguished in the opinion of the Supreme Court of Kansas above cited. Rucker v. Merck, 172 Ga. 793, 159 S. E. 501, and Atlanta v. Stokes, — Ga. —, 165 S. E. 270, sustaining the exemption, are in line with earlier rulings made by the Supreme Court of Georgia, but we think the construction given to the Act of Congress by the courts of Kansas and Alabama is the better reasoned and that it is the correct construction. It is in accord with the legislative policy of this State, which exempts from taxation and execution pensions paid by the State only so long as the money received by the pensioner is in his hands or on deposit in bank. Code of 1932, section 7715.

The decree of the chancery court will be reversed, and the case remanded to the chancery court for a decree sustaining the prayer of complainant's bill.

The costs of the appeal will be adjudged against the guardian, and if not paid, will be certified to the chancery [fol. 27] court, to be included in the decree of that court as a part of the tax lien.

Swiggart, Judge.

[fol. 28] [File endorsement omitted]

IN SUPREME COURT OF TENNESSEE, AT KNOXVILLE,
SEPTEMBER TERM, 1932

STATE OF TENNESSEE

vs.

ARTHUR BLAIR et al.

Blount Equity. Reversed and Remanded

Entered on the Minutes Feb. 21st, 1933, Page 185

JUDGMENT—Filed Feb. 21, 1933

This cause came on to be heard before the Honorable Supreme Court at a former day, upon the transcript of the record from the Chancery Court of Blount County and the assignments of error, and the briefs of all parties, including brief of amicus curiæ, and the argument of counsel, and was taken under advisement by the Court; and thereupon on consideration it was, on this 11th day of February, 1933, ordered, adjudged and decreed by the Court that the decree of the Chancellor is erroneous and that the complainant is entitled to the relief sought against J. T. Trotter, Guardian of Joseph A. Leake, in its original bill.

It is therefore ordered, adjudged and decreed by the Court that the decree of the Chancellor be reversed, and the case remanded to the Chancery Court for a decree sustaining the prayers of the complainant's bill.

It is further ordered, adjudged and decreed by the Court that the defendant, J. T. Trotter, Guardian of Joseph A. Leake, shall pay the costs of the appeal and if not paid, said [fol. 29] costs will be certified to the Chancery Court of Blount County to be included in the decree of that Court as a part of the tax lien.

The written opinion filed by the Court is hereby made a part of the record in this cause.

(Signed) Grafton Green, Colin P. McKinney, Wm. H. Swiggart.

[fol. 30] IN SUPREME COURT OF TENNESSEE

[Title omitted]

STIPULATION AS TO TRANSCRIPT OF RECORD

It is hereby stipulated and agreed by and between the solicitors for the -spective parties that the transcript of record — be filed in the Supreme Court of the United States in connection with petition for writ of certiorari shall include the following:

(1) The entire record as filed in the Supreme Court of Tennessee, omitting page 18.

(2) The assignments of errors filed in the Supreme Court of Tennessee.

(3) The Opinion of the Supreme Court of Tennessee.

(4) The judgment rendered by the Supreme Court.

(5) Copy of this stipulation.

(6) Clerk's certificate.

Dated this May 12, 1933.

Sam Johnson, Solicitor for Complainant. Kramer & Kramer, Solicitor- for Defendant.

[fols. 31–33] Clerk's certificate to foregoing transcript omitted in printing.

[fols. 34 & 35] IN SUPREME COURT OF UNITED STATES

ORDER EXTENDING TIME—Filed May 8, 1933

Time extended until May 18, 1933.

J. C. McReynolds, Justice.

[fol. 36] [File endorsement omitted.]

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 9, 1933

The petition herein for a writ of certiorari to the Supreme Court of the State of Tennessee is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(4053)